

SENATE BILL 1634

By Norris

AN ACT to amend Tennessee Code Annotated, Title 29,
Chapter 3, relative to nuisance abatement.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known, and may be cited as the "Community Safety Act".

SECTION 2. Tennessee Code Annotated, Section 29-3-103, is amended by adding the following language at the end of the section:

In addition, petitions under this chapter for the abatement of gang related conduct may be brought against the gang itself to which the gang members belong.

SECTION 3. Tennessee Code Annotated, Title 29, Chapter 3, is amended by adding the following as a new, appropriately numbered section:

Discovery may be permitted under the rules of civil procedure consistent with a scheduling order entered by the court upon motion of any party or upon the court's own initiative. Discovery shall not disrupt the effect of the temporary injunction issued under § 29-3-105 or § 29-3-106, and neither the identity nor the location of a confidential informant used to establish gang membership under § 29-3-101(a)(2) shall be discoverable.

SECTION 4. Tennessee Code Annotated, Section 29-3-110(b) is amended by deleting the language in its entirety and substituting the following language:

(b)

(1) Upon any hearing or trial involving a gang related nuisance, just as in any other case involving the abatement of a public nuisance under this chapter, each required element need only be proven by a preponderance of the evidence, notwithstanding any references under this chapter to the criminal code. Neither a criminal conviction nor a finding of juvenile delinquency is required in order to

prove, by a preponderance of evidence, that particular conduct is gang related conduct to be abated as a nuisance under this chapter. Gang related conduct to be abated as a nuisance may be proven through the testimony of a fact witness, an expert witness, or a combined fact-expert witness pursuant to the rules of evidence.

(2) If, upon any hearing or trial, the existence of a gang related nuisance is established under § 29-3-101, an order of abatement shall be entered as part of the judgment or decree of the court. That order shall enjoin perpetually the defendant or defendants from engaging in, conducting, continuing, aiding or abetting the nuisance, directly or indirectly.

(3) In addition to the relief permitted in subdivision (b)(2), the court may designate a certain geographically defined area or areas in any temporary or permanent gang injunction, which are narrowly tailored in compliance with prevailing constitutional case law for one (1) or more of the following purposes:

(A) Preventing the gang from gathering in public in groups of two (2) or more members; and

(B) Preventing any gang member from entering any public ground, place, or space where the gang has been found to have carried out its operations.

(4) All gang injunctions shall also include an “opt out” provision permitting an individual to seek an order of dismissal from the injunction upon proper application to the court, with thirty (30) days notice to the petitioner, truthfully stating that the individual renounces involvement with that particular gang, which is the subject of the gang injunction, and for the last two (2) years:

(A) Has not committed any crimes or engaged in any form of criminal conduct, not including any time spent incarcerated;

(B) Has not been in the company, or association, of any person found under this chapter to be a gang member, other than an immediate family member; and

(C) Has not obtained any new gang-related tattoos.

SECTION 5. Tennessee Code Annotated, Section 29-3-111, is amended by deleting the section in its entirety and substituting instead the following language:

(a) If any person breaks into, enters, or uses any building or place while closed under a preliminary injunction granted under §§ 29-3-101 -- 29-3-111, violates any permanent injunction granted under such sections, or knowingly violates any temporary or permanent gang injunction, such person commits a Class C misdemeanor.

(b) As used in this section, "knowingly" refers to the mental state as described in § 39-11-302.

SECTION 6. If any provision of this act or the application of any provision of this act to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are declared to be severable.

SECTION 7. This act shall take effect July 1, 2014, the public welfare requiring it.